

<b>Interview Summary</b>	<b>Application No.</b> 09/540,601	<b>Applicant(s)</b> HAUK ET AL.	
	<b>Examiner</b> Richard Fults	<b>Art Unit</b> 3628	

All participants (applicant, applicant's representative, PTO personnel):

(1) Richard Fults. (3)\_\_\_\_\_.

(2) Joe Pequin. (4)\_\_\_\_\_.

Date of Interview: 5/10, 7/15, 7/22/02.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☐ No.  
If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 1-40.

Identification of prior art discussed: CME Presswire of 8/13/1997.

Agreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

i) ☒ It is not necessary for applicant to provide a separate record of the substance of the interview (if box is checked).

Unless the paragraph above has been checked, THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

\_\_\_\_\_  
Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

#### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case unless both applicant and examiner agree that the examiner will record same. Where the examiner agrees to record the substance of the interview, or when it is adequately recorded on the Form or in an attachment to the Form, the examiner should check the appropriate box at the bottom of the Form which informs the applicant that the submission of a separate record of the substance of the interview as a supplement to the Form is not required.

It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: On 5/10/02 Examiner told Attorney Pequin that prior art precluded the original independent claim 1 and any others not related to trader metaphors simulating body movements of a trader in open outcry trading. Examiner stated that the latter feature appeared to be allowable and should be the focus of all independent claims, and stated within each of them, and also commented on the wording of the preamble to claim 1; that it should be worded to cover the trading environment if it was not just for training. Attorney Pequin agreed with all of the above and to submitting a revised draft containing the suggested changes, which he did the next day. The official copy of the preliminary amendment was requested on 5/14/02. After internal review of allowable claims it was determined that the trader metaphors simulating body movements was not a patentable feature, but rather the initiation of trading orders based on those movements as communicated through a coder/decoder were, and that finding was communicated to the attorney on 7/15/02. The attorney said he needed time to review the new grounds for allowance and to consult with his client. On 7/22/02 the attorney called the examiner to say that he agreed with the new grounds and would reflect that in a new preliminary amendment in all the independent claims, which amendment was received in official form on 7/23/02.

DETAILED ACTION

1. **Claims 1-16, 18, and 20-33 are allowed.**

2. **Examiner's Comment:** The application having been allowed, formal drawings are required in response to this Office Action.

3. The following is the examiner's statement of reasons for allowance:

The applicant has claimed a novel method of simulating the environment of an open outcry trading floor and then initiating actual orders based upon that simulated environment, which key feature is: virtual trader metaphors representative of actual traders, more specifically simulating the body movements of traders in that environment and in particular the hand movements unique to open outcry trading, are received and transmitted through a coder/decoder and then actual orders are initiated in response to and, related to, the data displayed by one or both of a graphic and data interface coupled to the coder/decoder.

The closest prior art is Marshall (US 5,774,878 A), which discloses a virtual reality world of statistical and technical financial information in financial markets. His virtual reality world presents specific financial information as three-dimensional objects, or metaphors, as part of the virtual reality world. The user is able to view, manipulate, and travel through the metaphors, which are displayed in such a way to allow a user to easily locate relevant financial information, interact with different characteristics, and see financial trends in the statistical and technical market information generated through his invention.

However, Marshall does not teach the simulation of human body movements of the traders in these markets or any statistical or technical market information derived from such body movements, and he does not teach the initiation of any trading orders based on such body movement information. The open outcry type of trading originated in the commodity (futures) markets, and is not found on the New York or American

Art Unit: 3628

Stock Exchange, nor is it present in NASDAQ, which is all electronic and not person-to-person.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid delays, should preferably accompany the issue fee. Such submissions should be clearly "Comments on Statement of Reasons for Allowance".

**4. The prior art of record**, although not cited above, is considered pertinent to one or more of Applicant's claimed inventions:

Marshall (US 6,073,115 A), which teaches an update on the closest prior art above described.

Robertson et al (EPO 0 435 601 A2), which discloses the display of hierarchical three-dimensional structures.

Presswire, CME announces September 9 launch for "E-Mini" S&P 500 contracts, August 13, 1997, pages 1-2, which discloses temporary virtual trading for a 1/10<sup>th</sup> size S&P 500 futures contract for the future industry's first non-open outcry electronic trading system.

Clow, Robert, Is There a Future for Futures?, June, 1998, Institutional Investor, pages 1-6, which discloses the progression towards electronic trading exchanges and away from the open outcry system.

**5. Other art of record:**

Segal et al (WO 01/55968 A2), which discloses a virtual trading floor system for the New York Stock Exchange (non-open outcry).

**6. Any inquiry** concerning this communication or earlier communications from the examiner should be directed to Richard Fults whose telephone number is 703-305-5416. The examiner can normally be reached on weekdays from 8:30 to 5:00.

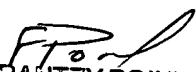
Art Unit: 3628

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frantz Poinvil, can be reached on (703)-305-9779. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

RCF

7/24/2002

  
FRANTZY POINVIL  
PRIMARY EXAMINER  
AU 3628